

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Emergency Rules

■ DAY CARE

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted emergency amendments to Licensing Standards for Day Care Homes (89 IAC 406; 44 Ill Reg 11070), Licensing Standards for Day Care Centers (89 IAC 407; 44 Ill Reg 11079) and Licensing Standards for Group Day Care Homes (89 IAC 408; 44 Ill Reg 11094) all effective 6/12/20. These emergency amendments modify 3 emergency rules effective 5/29/20 for the remainder of those rules' 150-day terms. Identical proposed amendments appear in this week's *Illinois Register* at 44 Ill Reg 10846, 10849 and 10852. These emergency and proposed rules update DCFS policies for day care homes and centers that are reopening during Phases III and IV of the Restore Illinois pandemic recovery plan. Instead of listing all the additional

COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

measures to which day care licensees must adhere during the recovery period, the new emergency rules allow day care homes and centers to resume operation subject to the existing requirements of these Parts, staff-to-child ratios and group sizes prescribed in the emergency rules, and guidance issued by DCFS

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Proposed Rulemakings

COMMUNITY COLLEGES

The ILLINOIS COMMUNITY COLLEGE BOARD proposed amendments to Administration of the Illinois Public Community College Act (23 IAC 1501; 44 Ill Reg 10855) implementing three Public Acts that affect community college employment contracts (other than collective bargaining agreements). Fixed-term employment contracts with community college district employees are limited to no more than 4 years; renewals or extensions of a contract must be approved during an open meeting of the community college district board; and rollover clauses that allow a contract to be automatically renewed without any additional action or signatures are prohibited. Public notice of any pending vote on an employment

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Adopted Rules

■ INCOME TAX

The DEPARTMENT OF REVENUE adopted amendments to Income Tax (86 IAC 100; 44 Ill Reg 97 and 1785), effective 6/10/20, that combine two separately proposed rulemakings implementing several Public Acts. The rulemaking clarifies how the amount of employment income subject to Illinois income tax is determined for persons who perform employment services in other states, or whose base of operations is outside of Illinois. Effective with the 2020 tax year, a formula for determining how many working days the taxpayer performed services outside of Illinois and how much of the

taxpayer's income should be allocated to other states will be used to calculate this tax for persons who perform services in Illinois at least 30 working days per tax year. Specific provisions that apply to railroad, motor carrier, merchant mariner and air carrier employees are included with examples. Other provisions explain how working days in Illinois will be determined for non-Illinois residents and how income subject to Illinois tax will be determined for non-resident professional athletes (including players on a disabled list, coaches, managers, and trainers). Additionally, this rulemaking repeals, effective 12/31/17, a prohibition that forbids persons who are required to use

different methods of apportioning their income (to determine how much is subject to Illinois income tax) from belonging to the same unitary business group. It also clarifies the situations in which the former unitary business group prohibition does and does not apply and accounts for limitations placed on the deduction of business interest expense from federal income tax for tax years 2018 and beyond. Those affected by this rulemaking include Illinois residents who perform employment related services (e.g., sales) out of State on a scheduled or occasional basis.

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Emergency Rules

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and posted on its website. This guidance includes, but is not limited to, information regarding program planning, access to child care facilities, daily health screenings, cleaning and sanitation, and personal hygiene (including use of masks and other personal protective equipment) and will be updated as public health recommendations of the Illinois Department of Public Health and the federal Centers for Disease Control and Prevention evolve. Additionally, DCFS has withdrawn proposed amendments to Parts 406, 407 and 408 that appeared in the 6/12/20 *Register* at 44 Ill Reg 10052, 10055 and 10058 in order to draft new proposed rules addressing day care operation during the COVID-

19 emergency. Day care homes and centers are affected by these emergency rules. (JCAR objected to these emergency rules at its 6/16/20 meeting.)

Questions/requests for copies/comments on the 3 proposed DCFS rulemakings through 8/10/20: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, 217/524-1983, TDD 217/524-3715, DCFS.Policy@illinois.gov

■ VIDEO GAMING

The ILLINOIS GAMING BOARD adopted an emergency amendment to Video Gaming (General) (11 IAC 1800; 44 Ill Reg 11104) effective 6/15/20 for a maximum of 150 days. The emergency amendment allows e-

mail filing of certain documents during IGB's process for resolving contested use agreements between licensed terminal operators and licensed establishments hosting video gaming terminals. Petitioner documents must be submitted via the e-mail address posted on the Board's website and must include an e-mail address to which responses can be sent. Those affected by this emergency rule include small businesses and non-profit fraternal or veterans' organizations that serve as licensed video gaming establishments.

Questions/requests for copies: Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago IL 60601, IGB.RuleComments@igb.illinois.gov

Proposed Rulemakings

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contract must include, at a minimum, a description of the proposed financial components of the contract and a description of the action to be taken by the board. Contracts with community college presidents and chancellors must also be approved, renewed, extended or terminated during an open meeting of the board. Performance-based bonuses or compensation offered or paid to a president or chancellor must be approved in an open board meeting, and the performance criteria or goals upon which this compensation is based must be made available to the public on the district's official website at least 48 hours before board approval. The board must also conduct an annual performance review of the president or chancellor; consider the results of the review when contemplating a bonus, raise or severance agreement; and post the review criteria and goals on the district website. The rulemaking also limits severance pay to no more than 20 weeks of regular compensation and prohibits severance pay to employees that have been fired for misconduct. Community college contractual employees are affected by this rulemaking.

Questions/requests for copies/ comments through 8/10/20: Matt Berry, ICCB, 401 E. Capitol Ave., Springfield IL 62701-1711, 217/785-7411, fax 217/524-4981, matt.berry@illinois.gov

TAX LIENS

The DEPARTMENT OF REVENUE proposed a new Part titled State Tax Lien Registry (86 IAC 720; 44 Ill Reg 10865) implementing provisions of Public Act 100-22. The rulemaking establishes a public registry/database of tax liens that have been filed with and enforced by DOR. Interested persons may purchase electronic subscriptions to this registry by submitting a subscription form (available at the Department's website) with the purchase fee. Subscriptions are valid for one year and may be renewed annually.

Questions/requests for copies/ comments through 8/10/20: Brian Fliflet, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

■ PROCUREMENT

The OFFICE OF THE ATTORNEY GENERAL proposed an amendment to the Part titled Attorney General's Procurement (44 IAC 1300; 44 Ill Reg 10831) implementing Public Act 100-801. The rulemaking establishes aspirational goals for the AG's goods and services contracts in accordance with the Business Enterprise for Minorities, Women, and Persons with Disabilities Act. These goals are for at least 20% of the total dollar value of these contracts to be awarded to businesses owned by minorities, women and persons with disabilities, with at least 11% to minority-owned businesses, 7% to

women-owned businesses, and 2% to businesses owned by persons with disabilities. Contracts for investigations or litigation services are not included in these goals. The rulemaking also addresses various means by which the OAG can attempt to attain these goals. Small businesses seeking contracts with the OAG may be affected.

Questions/requests for copies/ comments through 8/10/20: Melissa Mahoney, OAG, 100 W. Randolph St., 12th Fl., Chicago IL 60601, 312/814-3950, or Lynn Patton, OAG, 500 S. Second St., Springfield IL 62701, 217/524-1504.

BHE REPEALER

The BOARD OF HIGHER EDUCATION proposed repeal of the Part titled Graduation Incentive Grants (23 IAC 1002; 44 Ill Reg 10840) to reflect Public Act 101-149. The PA and this repealer abolish a defunct BHE grant program for public universities.

Questions/requests for copies/ comments through 8/10/20: Karen Helland, BHE, 1 N. Old State Capitol Plaza, Suite 333, Springfield IL 62701-1377, 217/557-7358, fax 217/782-8548, helland@ibhe.org

Adopted Rules

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■ CANNABIS SALES TAX

DOR also adopted an amendment to Retailer's Occupation Tax (86 IAC 130; 44 Ill Reg 1811) effective 6/10/20, replacing an emergency amendment that was effective 1/13/20. The rulemaking implements Public Act 101-593, which clarifies the applicable tax rate for food products that contain or are infused with cannabis for adult use. These products are subject to the adult use cannabis tax rate of 6.25% rather than the 1% sales tax rate normally applied to food purchased for off-premises consumption. Adult use cannabis sellers are affected by this rulemaking.

Questions/requests for copies of the 2 DOR rulemakings: Part 100, Brian Stocker; Part 130, Richard S. Wolters; DOR, 101 W. Jefferson St., Springfield IL 62796, 217/782-2844.

STUDENT ASSISTANCE

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted amendments to Illinois National Guard (ING) Grant Program (23 IAC 2730; 44 Ill Reg 3143), Illinois Veteran Grant (IVG) Program (23 IAC 2733; 44 Ill Reg 3154), Monetary Award Program (MAP) (23 IAC 2735; 44 Ill Reg 3167), Golden Apple Scholars of Illinois Program (23 IAC 2764; 44 Ill Reg 3185) and AIM HIGH Grant Pilot Program (23 IAC 2766; 44 Ill Reg 3194) and proposed a new Part titled Adult Vocational Community College

Scholarship Program (23 IAC 2745; 44 Ill Reg 3179), all effective 7/1/20. The new Part 2745 implements PA 101-315, which establishes a community college scholarship program for unemployed persons age 30 or older. Qualified applicants must be U.S. citizens or eligible noncitizens who are Illinois residents; must have been enrolled on the Department of Employment Security's job search site for at least 6 months prior to submitting an application for the program; and must be enrolled or have been accepted for enrollment at their local community college. Scholarships are limited to \$2,000 per academic year. In Parts 2730 and 2733, ISAC clarifies the scope of available benefits under the federal Post-9/11 GI Bill, which must be used before ING or IVG benefits are applied. Additionally, Part 2733 amendments clarify the 15-year Illinois residency requirement for veterans' grant recipients who were not residents at the time of their enlistment or within 6 months after discharge and set a priority claim date in May (formerly, late March or early April) for the spring semester. Amendments to Part 2735 more accurately reflect the MAP grant award process and update references to the federal Workforce Innovation and Opportunity Act. The Part 2764 rulemaking includes revisions that more accurately reflect the role of the institution in certifying a recipient's eligibility. Amendments to Part 2766 clarify that the base period for determining a university's baseline AIM HIGH award (which it must match or exceed each year to meet the maintenance of effort requirement) is the

2017-18 academic year, not including the summer term.

Questions/requests for copies of the 6 ISAC rulemakings: Jackie Eckley, ISAC, 500 W. Monroe St., 3rd Fl., Springfield IL 62704, 217/782-5161, jackie.eckley@illinois.gov

■ VIDEO GAMING

The ILLINOIS GAMING BOARD adopted amendments to Video Gaming (General) (11 IAC 1800; 43 Ill Reg 13354) effective 6/10/20. This rulemaking replaces an emergency amendment adopted 11/8/19 (43 Ill Reg 13464), suspended effective 11/12/19 and later amended by emergency rulemaking effective 2/21/20 (44 Ill Reg 3568). This rulemaking requires any transfer of ownership interest in a licensed terminal operator, or in a business entity (other than a publicly traded corporation) that has an interest in a licensed terminal operator, to have Board approval unless all material terms of the prospective transaction were fully disclosed to the Board on or before 11/7/19. (IGB states that the purpose of these rules is to extend to video gaming the same degree of oversight regarding transfers of ownership interest that currently exists with regard to riverboat and casino gambling.) Any person other than a licensed terminal operator that seeks to acquire less than 100% ownership interest in a licensed terminal operator must

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Adopted Rules

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complete either a Business Entity or Personal Disclosure Form and provide any other information that the Board requests, including but not limited to the reason for acquisition of ownership interest and disclosure of other ownership interests. This information must also be provided to the Board upon request when one licensed terminal operator seeks to acquire an ownership interest in another operator. If that person seeks to acquire a 100% ownership interest, he or she must complete a terminal operator application. IGB shall investigate all persons seeking ownership interest in a licensed terminal operator and shall grant permission for the transfer only after it is satisfied that the transaction will not adversely affect public confidence and trust in gaming, threaten the security and integrity of video gaming, or tend to discredit the Illinois gaming industry or the State of Illinois. The Board has 90 days to rule on ownership interest transfers from the date that the requesting party has disclosed all terms of the transfer. If the terminal operator involved in the proposed transfer has received a disciplinary complaint, the Board has until the date of the second Board meeting after conclusion of the disciplinary proceedings to make a determination. If a transfer of ownership is denied, the person whose request was denied may request a hearing. No video gaming asset (e.g., the right to place terminals at a licensed establishment) other than

equipment may be transferred or assigned to another licensed terminal operator without prior approval from the IGB Administrator. The Administrator may deny a request to transfer or assign an asset if he or she finds that the request is “not in the best interest of gaming” in Illinois. Factors to be considered in asset transfer requests include undue economic concentration, the integrity of the State’s video gaming industry, and the status of the licensees with IGB. Once a transfer/assignment request has been denied, the terminal operator may only carry out the transfer or assignment with the Board’s permission. Changes since 1st Notice clarify information that may be requested by IGB and the timelines for the process of granting or denying an ownership transfer. Those affected by these rules include licensed video gaming terminal operators and their owners or investors.

Questions/requests for copies:
Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago IL 60601, fax 3 1 2 / 8 1 4 - 7 2 5 3 ,
Agostino.lorenzini@igb.illinois.gov

HOSPITAL ASSISTANCE

The OFFICE OF THE ATTORNEY GENERAL adopted an amendment to Hospital Financial Assistance under the Fair Patient Billing Act (77 IAC 4500; 44 Ill Reg 3337) effective 6/12/20 updating income thresholds for hospital financial assistance eligibility to reflect the 2020 federal poverty guidelines issued by the US

Department of Health and Human Services.

Questions/requests for copies:
David F. Buysse, OAG, 100 W. Randolph, 12th Fl., Chicago IL 60601, 312/814-7236.

AIR POLLUTION

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY adopted amendments to Public Participation in the Air Pollution Control Permit Program (35 IAC 252; 43 Ill Reg 7028), effective 6/10/20, concerning public hearings, comments, and other measures related to Prevention of Significant Deterioration (PSD) permits for new, or significantly modified, air pollution sources in nonattainment areas that have not met federal Clean Air Act standards. The process for issuing a PSD permit can be combined with the process for completing a Nonattainment Area New Source Review (NANSR). The rulemaking adds and clarifies public notice, final decision and other requirements for PSD permits, including provisions for reopening the public comment period if an applicant or other affected parties demonstrate to IEPA’s satisfaction that a tentative decision to issue a draft PSD permit was inappropriate. Entities seeking PSD permits or wishing to comment on a permit will be affected.

Questions/requests for copies:
Sally Carter, IEPA, 1021 N. Grand Ave. East, Springfield IL 62794-9276,
217/782-5544,
sally.carter@illinois.gov

Second Notices

The following rulemakings have been moved to Second Notice by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at the July 14, 2020 JCAR meeting. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

BOARD OF BOILER & PRESSURE VESSEL RULES

Boiler and Pressure Vessel Safety (41 IAC 2120; 44 Ill Reg 4749) proposed 3/27/20

DEPT OF EMPLOYMENT SECURITY

Payment of Unemployment Contributions, Interest and Penalties (56 IAC 2765; 44 Ill Reg 5971) proposed 4/17/20

DEPT OF HUMAN SERVICES

Early Intervention Program (89 IAC 500; 44 Ill Reg 3836) proposed 3/13/20

IL GAMING BOARD

Riverboat and Casino Gambling (86 IAC 3000; 44 Ill Reg 6205) proposed 4/24/20

DEPT OF REVENUE

Retailers' Occupation Tax (86 IAC 130; 44 Ill Reg 485) proposed 1/10/20

Use Tax (86 IAC 130; 44 Ill Reg 487) proposed 1/10/20

SECRETARY OF STATE

Statements of Economic Interests (2 IAC 565; 44 Ill Reg 5708) proposed 4/3/20

STATE BOARD OF EDUCATION

Early Childhood Block Grant (23 IAC 235; 44 Ill Reg 1461) proposed 1/17/20

Student Records (23 IAC 375; 44 Ill Reg 2718) proposed 2/14/20

Charter Schools (23 IAC 650; 44 Ill Reg 2729) proposed 2/14/20

STATE UNIVERSITIES RETIREMENT SYSTEM

Universities Retirement (80 IAC 1600; 44 Ill Reg 4559) proposed 3/20/20

Joint Committee on Administrative Rules

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Senator John F. Curran
Senator Kimberly Lightford
Senator Tony Muñoz
Senator Sue Rezin
Senator Paul Schimpf

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Vicki Thomas
Executive Director